



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 27, 1996

Ms. Christine T. Rodriguez  
Staff Attorney  
Legal and Compliance Division, M.C. 110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR96-0428

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 35109.

The Texas Department of Insurance (the "department") received a request for "[t]he name of the complainant [*sic*] who filed against Notary Public Und. Agency of Texas." You contend that the requested information is excepted under section 552.101 of the Government Code as it incorporates the informer's privilege and section 552.103 of the Government Code.

Texas courts long have recognized the informer's privilege, *see Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928), and it is a well-established exception under the Open Records Act, Open Records Decision No. 549 (1990) at 4. For information to come under the protection of the informer's privilege, the information must relate to a violation of a civil or criminal statute. *See* Open Records Decision Nos. 515 (1988) at 2-5; 391 (1983). In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale that underlies the informer's privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of violations of law to officers charged with enforcement of that law. [Citations omitted.] The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their knowledge of the

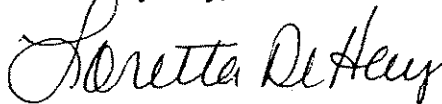
commission of crimes to law enforcement officials and, by preserving their anonymity, encourages them to perform that obligation. [Emphasis added.]

Although the "informer's privilege" aspect of section 552.101 ordinarily applies to the efforts of law enforcement agencies, it can apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 (1981) at 1, 279 at 1-2 (1981); *see also* Open Records Decision No. 208 (1978) at 1-2. This may include enforcement of quasi-criminal civil laws. *See* Open Records Decision Nos. 515 (1988) at 3; 391 (1983) at 3. The privilege excepts the informer's statement itself only to the extent necessary to protect the informer's identity. Open Records Decision No. 549 (1990) at 5. However, once the identity of the informer is known to the subject of the communication, the exception is no longer applicable. Open Records Decision No. 202 (1978) at 2.

You state that the complainant was reporting a violation of the Insurance Code and that the department is authorized to "'see that all laws respecting insurance and insurance companies are faithfully executed.' TEX. INS. CODE ANN. art. 1.10(1)." Accordingly, you may withhold from required public disclosure the name of the complainant under the informer's privilege as incorporated under section 552.101 of the Government Code.<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta DeHay  
Assistant Attorney General  
Open Records Division

LRD/LBC/ch

Ref: ID# 35109

Enclosures: Marked documents

---

<sup>1</sup>As we resolve your request under section 552.101 and as the other information submitted for our review is not responsive to the request at issue, we need not address the applicability of section 552.103.

cc: Jeanne R. Truitt  
President  
P.O. Box 140106  
Austin, Texas 78714-0106  
(w/o enclosures)